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FISCAL IMPACT STATEMENT

LS 7684

BILL NUMBER: HB 1804

NOTE PREPARED: Apr 11, 2007

BILL AMENDED: Apr 10, 2007

SUBJECT: Various Election Law Matters.

FIRST AUTHOR: Rep. Pierce

FIRST SPONSOR: Sen. Landske

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) The bill makes the following changes:

Voter Registration List Maintenance- The bill defines "active" and "inactive" voters for purposes of voter list maintenance.

Military or College ID- The bill provides that an identification document issued to an active or retired military member with an indefinite expiration date or an identification issued by an approved institution of higher learning is an acceptable proof of identification to vote.

Prohibition From Acting As an Agent of the Election Division or Secretary of State- The bill provides that a county or town official may not act as an agent of the Election Division or the Secretary of State for the receipt of candidacy filings.

Voter Challenges in Long Term Care Facilities- The bill removes a provision that prohibits the challenge of an absentee ballot cast by certain residents of long term care facilities.

Exceptions to Proof of Identification- The bill removes provisions permitting a person to execute an affidavit at the polls stating that the voter does not have proof of identification because the voter is indigent or has a religious objection to being photographed.

Certificate of Error- The bill renames a "certificate of error" as a "certificate of voter registration".

Conference Reimbursement- The bill restates county reimbursement procedures for attending the annual

election administrators' conference.

Contents of Reports- The bill specifies the contents of statewide voter registration system reports.

Voter Registration List Maintenance- The bill specifies certain procedures in connection with voter list maintenance and updates procedures for address changes of voter registration records in the statewide voter registration system.

Braille Instructions and Notices at Polls- The bill removes a requirement that certain instructions and notices used at the polls must be printed in braille.

Straight Party Ticket Instructions- The bill revises the instruction to voters who vote a straight party ticket and vote for candidates not on the straight party ticket.

Candidate With Relatives Serving as Precinct Election Officers- Requires certain candidacy documents to contain a statement that is separately signed by the candidate that the candidate is aware of the statute prohibiting certain relatives of the candidate from being a precinct election officer.

Matching Candidate and Ballot Questions/Device Certification Dates- The bill changes several dates concerning the certification of ballot questions and devices to conform to the date in current law for the certification of candidates.

Dissolving Candidate Committees- The bill permits the dissolution of a committee without the waiver of outstanding civil penalties previously imposed on the committee and specifies that the chairman or treasurer of the committee remains liable for any committee debts.

Reporting Period for Large Contributions- The bill specifies the reporting period for large contributions to candidates for statewide office.

Primary Ballot Cards- The bill specifies the number of ballot cards that must be made available to voters who are 17 years of age in a primary and to voters who wish to vote in school board elections only or on a public question only at a primary.

Registration Records Update- The bill requires that county voter registration records be updated not later than 60 days after election day or after completion of a recount or contest.

Special Election of U.S. Representatives- The bill establishes procedures for conducting a special election for United States Representative in conformity with applicable federal law when more than 100 vacancies exist.

Providing Information for Absentee Ballot- The bill requires a voter applying for an absentee ballot to provide certain information concerning the voter's identification before receiving an absentee ballot.

Oversees Voters' Ballots- The bill allows an overseas voter to transmit an absentee ballot application by electronic mail.

Notification of Absentee Ballot Denials- The bill provides that if a voter's application for an absentee ballot is denied, the county election board must notify the applicant of the denial and tell the applicant how the

application can be corrected and approved, if possible.

Precinct Boundaries- The bill revises precinct boundary change procedures.

Absentee Ballot Counting- The bill provides for the counting of an absentee ballot received by the county election board before the close of the polls on election day if the ballot is not otherwise successfully challenged.

Beginning Date of Absentee Voting- The bill makes the beginning date of absentee voting in the clerk's office or a satellite office one day later than under current law.

Casting Absentee Ballots at Satellite Offices- The bill permits a county election board to authorize casting absentee ballots only at satellite offices rather than at satellite offices and the clerk's office.

Violations- For voting system violations: (A) The bill defines "election" for purposes of the Secretary of State's enforcement of violations; (B) The bill specifies that, in computing the maximum civil penalty, a violation that occurs in more than one county is subject to the maximum civil penalty in each county; and (C) The bill provides that the Secretary of State is not subject to the Indiana Code's administrative orders and procedures provisions in assessing a civil penalty.

Voting System Technical Oversight Program Account- The bill provides that the Voting System Technical Oversight Program Account is nonreverting and that money in the account is continuously appropriated for voting system statute enforcement.

Audit of Election Records - The bill authorizes the Secretary of State to conduct audits to determine federal and state laws requiring the securing and retention of election records.

Vote Center Pilot County- The bill provides that voters who reside within the portion of a municipality located in a vote center pilot county may vote using vote center pilot county procedures.

Returning of Absentee Ballot- The bill requires an absentee voter to return the absentee ballot to the precinct election board or the county election board before the voter votes in person at the precinct.

Counting of Ballots- The bill removes a provision requiring counting of a ballot (other than an absentee ballot not initialed by the appropriate election officials) that has been marked and cast by a voter in compliance with election law but may otherwise not be counted solely as the result of the act or failure to act of an election officer unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented.

Inspecting Electronic Voting System Registers- The bill amends procedures for a county election board to authorize or conduct an inspection of an electronic voting system either before or after the tabulation of votes cast on the system.

Recount Procedures- The bill restates the maximum amount of a cash deposit or bond in a local recount proceeding.

Candidate Ballot Vacancies- The bill amends provisions concerning candidate ballot vacancy procedures.

Penalty Provision- The bill provides that a person who pays or accepts property to obtain signatures on a petition for ballot access commits a Class D felony, if certain conditions exist.

Treasurer of State Office Date- The bill provides that an individual elected treasurer of state takes office January 1, following the individual's election.

Exemption of Poll Workers From Social Security Withholdings- The bill provides for an exemption from withholding Social Security taxes from amounts paid to election officials or workers that are less than \$1,300 per year.

State Department of Health Fees- Provides that an individual who does not have an Indiana driver's license and will be at least 18 years of age by election day may not be charged a fee by the State Department of Health for a birth record search or for the issuance of a birth certification if the record is found, or charged a birth problems registry fee.

Treasurer of State Vest Time in PERF- The bill provides that an individual elected Treasurer of State takes office January 1 following the individual's election. The bill also provides that the individual elected Treasurer of State at the 2006 election vests as a member of PERF if the individual is reelected as Treasurer of State at the 2010 election and serves in office until January 1, 2015.

Electronic Voter Registration Applications- The bill allows a county voter registration office to process a voter registration application transmitted electronically by a license branch of the Bureau of Motor Vehicles without receiving the paper copy.

School Plan Changes- The bill provides for the initiation of the change of a school corporation's organization plan if 10% of the active voters in the school corporation sign a petition for the change. (Under current law, 20% of the voters in a school corporation must support a petition for a change in the school corporation's organization plan.)

Approval of Certain Precinct Establishment Orders- The bill provides for certain precinct boundary changes to take effect not later than August 31, 2007.

Repealers- The bill repeals obsolete references concerning the mailing of monthly voter registration record transaction reports, certificates of election issued by the county auditor, paper ballots, and special polling places.

Effective Date: Upon passage; January 1, 2007 (retroactive); July 1, 2007; January 1, 2008.

Explanation of State Expenditures: *Matching Candidate and Ballot Questions/Device Certification Dates-* The bill would place the certification of public questions and devices on the same date as the certification of nominees and ballot placement. Under current law, the deadline for Secretary of State certification of independent or minor political party candidates, public questions, and providing counties with political party devices is noon, August 20. The bill would place this deadline at 74 days before the general election. Therefore, the proposed deadline for the 2008 general election would be approximately noon on Friday, August 22, 2008.

Special Election of U.S. Representatives- The Election Division could require additional staff time to process candidate filings for U.S. Representative in the event of a special election. Depending on the number of

persons that could file candidacy documents under emergency conditions, the Election Division would be able to process the documents within their existing level of resources.

Background Election Division: The Indiana Election Commission, under which the Election Division operates, reverted \$55,072 to the General Fund at the end of FY 2006. The Election Division had 11 full-time employees and three vacancies as of October 3, 2006.

Audit of Election Records - The Secretary of State would be required to audit 1% of all precincts in Indiana by June 1 of each year. The audit would focus on the status of precinct election materials retained by a circuit court clerk. The Secretary of State presently does not perform this type of audit. There are 5,604 precincts in Indiana which would require approximately 56 annual audits. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Background on the Secretary of State: The Secretary of State reverted \$149,755 to the General Fund at the end of FY 2006 and \$120,467 at the end of FY 2005. As of February 5, 2007, the Secretary of State had nine vacant positions with the combined salary of the positions totaling \$265,096.

Penalty Provision- A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

The provision could result in a minimal increase in administrative costs and expenditures for the Public Employees' Retirement Fund (PERF). The amount of any impact is unknown until after the 2010 election. If the Treasurer of State is reelected at the 2010 election and serves until January 1, 2015, they would be considered vested in PERF and may be eligible for PERF benefit payments. If the Treasurer of State is not reelected in 2010, no impact to state expenditures would occur. If the person were reelected in 2010 the impact would not be significant. Any impact would not be realized until after January 1, 2015.

Approval of Certain Precinct Establishment Orders- The provision would assist five counties that have not yet established precinct boundaries for the 2007 election. The Election Commission and the Election Division would be able to carry out this provision within their existing level of resources.

Explanation of State Revenues: *Dissolving Candidate Committees-* This provision could increase collection of outstanding civil penalties assessed on candidate committees. Under current law, in order to be administratively dissolved, the Election Commission must determine that further effort to collect outstanding civil penalties from a committee is not a prudent use of state resources. This provision would give the Commission the option to waive penalties *after* a committee has been administratively dissolved. Therefore, committees could be dissolved while remaining liable for any civil penalties assessed. As of December 19, 2006, there were 39 committees with \$20,900 in unpaid civil penalties that have been turned over to the Attorney General by the Election Division. Civil penalties collected from candidate committees are deposited

into the Campaign Finance Enforcement Account.

Violations- To the extent that a voting violation occurs in more than one county, the Secretary of State would be able to impose a penalty for separate violations. The Secretary of State may impose a civil penalty that may not exceed \$300,000, and any investigative costs incurred and documented by the Secretary of State. All civil penalties collected under this chapter are deposited in the Voting System Technical Oversight Program Account.

Voting System Technical Oversight Program Account- The Secretary of State would be able to use revenue from the Program Account to investigate alleged violations of election law. Additionally, the account would receive revenues from certification fees for voting systems (currently \$1,500 per certification) and contributions from a settlement agreement executed with a voting system vendor. The bill would make the Program Account non-reverting to the General Fund and the funds within continuously appropriated. Under current law, only civil penalties from voting system violations are deposited into the Program Account. As of December 18, 2006, for the current fiscal year, \$245,000 in revenue has been deposited in the Program Account.

Penalty Provision- If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

State Department of Health Fees- Indiana residents without a valid driver's license and at least 18 years of age at the next general, municipal, or special election would not have to pay fees for certification or amendment of birth records. There would likely be an indeterminable revenue loss to the state from this provision.

Background- Under current law, the State Department of Health charges an \$8 fee to search for records within the division of vital records. One free certification is provided and a fee of \$4 is charged per additional certification. An additional \$8 fee is charged if an amendment is made to the found record. Search and amendment fees are placed in the state General Fund. A separate \$2 fee is charged for each birth record search and deposited into the Birth Problems Registry Fund.

As of January 2006, there were approximately 4.03 M licensed drivers. In CY 2005 the state population of individuals aged 18 or greater was about 4.5 M. Therefore, about 0.47 M persons residing in Indiana could be affected by this provision, or about 10.4% of the state population age 18 or greater. Based on the amount of revenue generated by the \$2 birth problems registration fee (\$106,668 in FY 2006), approximately 53,300 birth records were searched in FY 2006. From FY 2002 to FY 2006 the number of searches increased on average by about 14% per fiscal year.

Explanation of Local Expenditures: *Conference Reimbursement-* All expenses allowed for newly elected or appointed clerks or county election board office holders to attend the Election Division instructional conference would be paid from the county general fund. Under current law, only the registration fee is to be paid from the county general fund. The other allowances under current law are: a \$24 per diem, mileage, and lodging equal to state rates.

Straight Party Ticket Instructions- This provision could affect ballot costs in counties with optical-scan voting systems. The additional language added to straight-party ticket instructions by the bill, would lengthen ballots, which could require additional pages to be printed for use in optical-scan voting systems.

Notification of Absentee Ballot Denials- Under current law, denial notices are sent to absent uniformed services and overseas voters. The provision would be extended to all absentee ballot applications. The provision could increase postage costs and increase staff time of county election boards.

Absentee Ballot Counting- County election boards may end up with additional absentee ballots to process. This provision would be able to met accomplished within existing county election board resources.

Beginning Date of Absentee Voting- This provision would allow county election boards to more efficiently process voter registrations received on the last day of voter registration, which under current law coincides with the first day of absentee voting before the board.

Primary Ballot Cards- Under the bill, a county election board would have to provide enough separate ballots for school board and public questions to cover 100% of the number of voters in a precinct according to the poll list. Additionally, in primary elections, the county election board would have to provide enough ballots for persons that would be of age to vote or have proper residency by the general election to nominate candidates in a primary. This provision could increase ballot costs for counties with a ballot-card system by an indeterminable amount. The impact to local expenditures would depend on the number of voters affected in each county. Thirty-three counties use ballot-card voting systems that serve 2,230 precincts and 1.7 million voters.

Special Election of U.S. Representatives- County election boards may need additional appropriations to cover the expenses of a special election. Expenses to run an election include: precinct election board per diem, rental of a facility for polling (if necessary), and/or voting equipment (if necessary.)

Background Precinct Election Board Expenses: Based on a small sample of Indiana counties, per diem for election board members range from \$65 to \$150 for inspectors and from \$40 to \$100 for judges, clerks, and sheriffs.

Casting Absentee Ballots at Satellite Offices- This provision would require the unanimous vote of the county election board to implement. If implemented, absentee ballots would be cast in satellite offices only.

Exemption of Poll Workers From Social Security Withholdings- This provision of the bill would save county auditors' staff time and expenditure to process paperwork for election worker compensation that exceeds the state's agreement threshold for election workers.

Background- Indiana's exemption threshold for election workers under the state's agreement is currently \$100 per calendar year. Election workers that work the polls for the primary and general elections in the same year often receive compensation that exceeds the \$100 threshold. Counties often have difficulty determining which election workers worked both elections and must spend staff time to get social security numbers and mailing addresses for W-2s. When an election worker's compensation exceeds the threshold, they are considered county employees for FICA. The additional employees increase the number of W-2 filings that must be mailed by the county auditor. When election workers exceed the threshold, they are considered part-time county employees and become eligible for unemployment benefits.

Employers must match the Federal Insurance Contributions Act (FICA) contributions made by their employees, if they are not exempted under the agreement. Therefore, county auditors must adjust their payroll systems to pay the employer share of FICA for election workers exceeding the exemption threshold.

Employers must "match" the FICA contributions of full-time, part-time, or contract employees on employer payroll or 7.65% of the employee's earned wages. (Earned wages in excess of \$97,000 annually are not subject to the current Social Security Tax rate of 6.2%.) The remaining 1.45% Medicare Tax is paid regardless if the employee's salary exceeds \$97,000 annually.

(Revised) *Electronic Voter Registration Applications*- This provision would allow county voter registration officials to process voter applications more quickly, thereby reducing the amount staff time spent on voter registration documents.

School Plan Changes- The provision would increase the administrative time of clerks that receive additional petitions regarding change in the composition and election procedure of governing body members. Under current law, 20% of voters within a school corporation must sign such a petition. The bill would require 10% of *active* voters to sign a petition.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Dissolving Candidate Committees*- This provision could increase the collection of outstanding civil penalties assessed on candidate committees. Under current law, in order to be administratively dissolved, county election boards must determine that further efforts to collect outstanding civil penalties from a committee are not a prudent use of local resources. The bill would allow boards the option to waive penalties *after* a committee has been administratively dissolved. Therefore, committees could be dissolved while remaining liable for any penalties assessed.

Penalty Provision- If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

Recount Procedures- This provision would have the effect of placing an upper bound on the maximum amount of cash deposit or bond set by a trial court in a local recount petition. Under current law, cash deposits for a recount are placed in the county general fund.

State Agencies Affected: Secretary of State, Election Division, Department of Correction; Treasurer of State, PERF.

Local Agencies Affected: County auditor, county election boards, school corporations, trial courts; local law enforcement agencies.

Information Sources: State Budget Agency: FY 2006 General Fund Reversion Statement; Social Security Administration; Jackie Clemens, Clinton County Auditor, 765-438-6823.

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